

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	
Clifton E. Lind et al.)	
Serial No.: 10/643,189)	Group Art Unit: 3713
Filed: August 18, 2003)	Examiner: Binh An Duc Nguyen
FOR: DYNAMICALLY CONFIGURABLE)	
<u>GAMING SYSTEM</u>)	Confirmation No.: 3668

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AMENDED APPEAL BRIEF

This is an appeal from the Final Office Action mailed September 25, 2006 (the "Final Office Action"), in the above-identified patent application. Appellants submit this Amended Appeal Brief to the Board of Patent Appeals and Interferences within the one-month shortened statutory period for Response set in the Notice of Non-Compliant Appeal Brief mailed March 18, 2008. It is believed that no fee is required to be submitted with this response. However, to the extent a fee is required, enclosed with this Amended Appeal Brief is a fee transmittal form (PTO/SB/17) which authorizes the USPTO to charge any fees required to be submitted with this Amended Appeal Brief to the undersigned attorney's USPTO deposit account.

TABLE OF CONTENTS

PAGE NO.

I.	REAL PARTY IN INTEREST	1
II.	RELATED APPEALS AND INTERFERENCES	1
III.	STATUS OF CLAIMS	1
IV.	STATUS OF AMENDMENTS	1
V.	SUMMARY OF CLAIMED SUBJECT MATTER	2-7
VI.	GROUND OF REJECTION TO BE REVIEWED ON APPEAL	7
VII.	ARGUMENT	8-17
VIII.	CONCLUSION	17
IX.	APPENDIX A - CLAIMS	18-24
X.	APPENDIX B - EVIDENCE	25
XI.	APPENDIX C - RELATED PROCEEDINGS	26

1 **I. REAL PARTY IN INTEREST (37 C.F.R. §41.37(c)(1)(i))**

2 The above-described patent application is assigned to Multimedia Games, Inc., the real
3 party in interest.
4

5 **II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. §41.37(c)(1)(ii))**

6 The above-described patent application is a continuation-in-part of U.S. Patent
7 Application Serial No. 10/624,279 which is currently under appeal to the United States Patent
8 and Trademark Office Board of Patent Appeals and Interferences and is awaiting a decision by
9 the Board.
10

11 **III. STATUS OF CLAIMS (37 C.F.R. §41.67(c)(1)(iii))**

12 The status of the claims is as follows:

13 Claims Allowed:	None
14 Claims Objected To:	None
15 Claims Canceled:	1 through 24
16 Claims Rejected:	25 through 42
17 Claims Appealed:	25 through 42

18

19 **IV. STATUS OF AMENDMENTS (37 C.F.R. §41.37(c)(1)(iv))**

20 There have been no claim amendments filed subsequent to the Final Office Action mailed
21 September 25, 2006.

1 **V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. §41.37(c)(1)(v))**

2 The appealed claims include six independent claims, claims 25, 32, 34, 39, 41 and 42.

3 The page number and line number references in this section refer to page and line numbers of the
4 original specification unless expressly indicated otherwise.

5 Claim 25

6 Claim 25 is directed to a gaming system that includes a gaming machine (10) with a game
7 presentation arrangement capable of producing a respective game presentation for any one of a
8 number of different games (p. 11, lines 5-14 and p. 12, lines 7-9; Fig. 1; p. 18, lines 5-9; Fig. 2).
9 The claimed gaming system also includes a player detecting arrangement, a player data collection
10 arrangement, a system configuration arrangement, and a game modification controller (Fig. 3,
11 reference nos. 58, 59, 51, and 50, respectively), each of which are defined in terms of the
12 function or functions that they perform in accordance with 35 U.S. C. §112, ¶6. The player
13 detecting arrangement (58, Fig. 3) is separate from the gaming machine (10) and functions to
14 detect a player as the player traverses a gaming facility and approaches an area of the gaming
15 facility in which the gaming machine is located. The structure for performing this player
16 detecting function is described in the specification at page 26, lines 11-21 with reference to Fig. 4
17 (note also p. 26, lines 1-3 as amended with the response filed June 28, 2006). The player data
18 collection arrangement (59, Fig. 3) functions to store player preference information for the
19 player, and the structure for performing this function is described in the specification at page 29,
20 line 13 to page 31, line 10 and at page 31, line 18 to page 32, line 5. The system configuration
21 arrangement (51, Fig. 3) functions to produce a system configuration command specifying a
22 game presentation likely to be favored by the player based on the player preference information

1 for the detected player (p. 29, line 8 to p. 30, line 20 referring to the player preference tracking
2 controller (57) component of the system configuration arrangement 51). The structure for
3 performing this system configuration command function is described in the specification at page
4 18, line 17 to page 19, line 4, with reference to Figure 3. The game modification controller (50,
5 Fig. 3) is in communication with the system configuration arrangement (51) and with the gaming
6 machine (10), and functions to receive the system configuration command from the system
7 configuration arrangement and communicate presentation switching instructions to the gaming
8 machine (p. 23, lines 18-21). These presentation switching instructions cause the gaming
9 machine (10) to switch from a first game presentation to the game presentation likely to be
10 favored by the player prior to an arrival of the player at the gaming machine (p. 22, lines 12-15;
11 p. 27, lines 3-7). The structure for performing the game modification controller functions is
12 described in the specification at page 18, line 10 to page 19, line 2, and page 20, line 13 to page
13 21, line 7.

14 Claim 32

15 Claim 32 is directed to a gaming system with a gaming machine (10, Fig. 1) that, similar
16 to claim 25, includes a game presentation arrangement capable of producing a respective game
17 presentation for any one of a number of different games (p. 11, lines 5-14 and p. 12, lines 7-9,
18 Fig. 1, p. 18, lines 5-9, Fig. 2). Unlike claim 25, claim 32 also requires that the gaming machine
19 (10) is located in a hotel room (p. 22, lines 6-9 and p. 31, lines 1-10). The gaming system set out
20 in claim 32 further includes a player data collection arrangement (59, Fig. 3), a system
21 configuration arrangement (51, Fig. 3), and a game modification controller (50, Fig. 3), each of
22 which are described in terms of the function or functions they perform in accordance with 35

1 U.S.C. §112, ¶6. The player data collection arrangement (59) functions to detect that a person
2 has been assigned to the hotel room in which the gaming machine (10) is located and to store
3 player preference information for the person assigned to the hotel room (p. 31, lines 3-5). The
4 structure for performing the player data collection arrangement functions is described in the
5 specification at page 29, line 13 to page 31, line 10 and page 31, line 18 to page 32, line 5. The
6 system configuration arrangement (58) functions to produce a system configuration command
7 based on the player preference information for the person assigned to the hotel room, and the
8 structure for performing this function is described in the specification at page 29, line 8 to page
9 30, line 20. The game modification controller (50) is in communication with the system
10 configuration arrangement (51) and with the gaming machine (10), and responds to the system
11 configuration command by communicating presentation switching instructions to the gaming
12 machine (p. 23, lines 18-21). The presentation switching instructions cause the gaming machine
13 (10) to produce a game presentation specified by the presentation switching instructions. The
14 structure for performing the game modification controller functions is described in the
15 specification at page 18, line 10 to page 19, line 2, and page 20, line 13 to page 21, line 7.

16 Claim 34

17 Claim 34 is directed to a method of changing a first game presentation produced by a
18 gaming machine (10) in a gaming facility. The method set out in claim 34 includes detecting a
19 player as the player is traversing the gaming facility and is approaching an area in which the
20 gaming machine (10) is located, the gaming machine having the capability of producing a
21 respective game presentation for any one of a number of different games (p. 26, lines 11-21 with
22 reference to Fig. 4). The method set out in claim 34 further includes retrieving stored player

1 preference information for the player (p. 29, line 8 to p. 31, line 10 and p. 31, line 18 to p. 32,
2 line 5), and producing a system configuration command based on the retrieved player preference
3 information for the player, the system configuration command specifying a second game
4 presentation different from the first game presentation (p. 29, line 8 to p. 30, line 20). Claim 32
5 further requires communicating presentation switching instructions to the gaming machine (10)
6 in response to the system configuration command (p. 18, line 17 to p. 19, line 4 with reference to
7 Fig. 3; and p. 23, lines 18-21), and changing from the first game presentation at the gaming
8 machine to the second game presentation (p. 22, lines 12-14). This change in game presentations
9 is performed in response to the presentation switching instructions and is performed prior to an
10 arrival of the player at the gaming machine (p. 27, lines 3-7, p. 28, lines 17-19).

11 Claim 39

12 Claim 39 is directed to a method of changing a game presentation produced by a gaming
13 machine (10) in a gaming facility. Claim 39 requires detecting that a player has been assigned to
14 a hotel room in which the gaming machine (10) is located (p. 22, lines 6-9 and p. 31, lines 1-10),
15 and retrieving stored player preference information for the player (p. 29, line 8 to p. 30, line 20).
16 Claim 39 further requires producing a system configuration command based on the retrieved
17 player preference information for the player, the system configuration command identifying a
18 game presentation likely to be favored by the player (p. 29, line 13 to p. 31, line 10 and p. 31, line
19 18 to p. 32, line 5). Claim 39 also requires communicating presentation switching instructions to
20 the gaming machine (10) in response to the system configuration command (p. 23, line 18-21),
21 and changing from the game presentation at the gaming machine to the game presentation likely

1 to be favored by the player, the change from the game presentation being performed in response
2 to the presentation switching instructions (p. 22, lines 12-15 and p. 27, lines 3-7).

3 Claim 41

4 Claim 41 is directed to a program product for configuring a gaming machine (10) having
5 the ability to produce a respective game presentation for a number of different games. The
6 program product set out in claim 41 includes system configuration program code that is
7 executable for retrieving game preference information on a player that has been detected
8 traversing a gaming facility toward an area of the gaming facility in which the gaming machine is
9 located (p. 8, lines 8-9, p. 35, lines 9-17), and for producing a system configuration command
10 specifying a game presentation likely to be favored by the player based on the retrieved game
11 preference information on the player (p. 29, line 8 to p. 30, line 20). The program product set
12 out in claim 41 further includes presentation switching program code that is executable for
13 responding to the system configuration command by communicating presentation switching
14 instructions to the gaming machine (p. 23, lines 18-21, p. 18, line 20 to p. 19, line 2). These
15 presentation switching instructions are effective for causing the gaming machine (10) to switch
16 from a first game presentation at the gaming machine to the game presentation likely to be
17 favored by the player, where the switch occurs prior to an arrival of the player at the gaming
18 machine (p. 22, lines 12-15 and p. 27, lines 3-7).

19 Claim 42

20 Claim 42 is also directed to a program product for configuring a gaming machine (10)
21 having the ability to produce a respective game presentation for a number of different games.
22 The program product set out in claim 42 requires system configuration program code that is

1 executable for retrieving game preference information on a player that has been assigned to a
2 hotel room in which the gaming machine (10) is located (p. 8, lines 8-9, p. 31, lines 1-10, p. 35,
3 lines 9-17), and for producing a system configuration command identifying a second game
4 presentation based on the retrieved game preference information on the player (p. 22, lines 12-
5 15). The program product set out in claim 42 also includes presentation switching program code
6 which is executable for responding to the system configuration command by communicating
7 presentation switching instructions to the gaming machine (10) (p. 23, lines 18-21, p. 18, line 20
8 to p. 19, line 2). The presentation switching instructions are effective for causing the gaming
9 machine (10) to switch from a first game presentation at the gaming machine to the second game
10 presentation (p. 22, lines 12-15).

11
12 **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**
13 **(37 C.F.R. §41.37(e)(1)(vi))**

14 Claims 32, 33, 39, 40, and 42 stand rejected under 35 U.S.C. §102(e) as being anticipated
15 by U.S. Patent Publication No. 2004/0166940-A1 to Rothschild (the “Rothschild reference or
16 “Rothschild”).

17 Claims 25 through 31, 34 through 38, and 41 stand rejected under 35 U.S.C. §103(a) as
18 being unpatentable over the Rothschild reference in view of U.S. Patent No. 5,923,252 to Sizer et
19 al. (“Sizer” or the “Sizer patent”).

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VII. ARGUMENT (37 C.F.R. §41.37(c)(1)(vii))

A. CLAIMS 32, 33, 39, 40, AND 42 ARE NOT ANTICIPATED BY ROTHSCHILD

The Appellants respectfully submit that the anticipation rejections stated in the Final Office Action are in error because the Rothschild reference does not disclose each element required in claims 32, 33, 39, 40, and 42.

Claim 32

Claim 32 is directed to a gaming system and includes the following elements:

- (a) a gaming machine including a game presentation arrangement capable of producing a respective game presentation for any one of a number of different games, the gaming machine being located in a hotel room;
- (b) a player data collection arrangement **for detecting that a person has been assigned to the hotel room in which the gaming machine is located** and for storing player preference information for the person assigned to the hotel room;
- (c) a system configuration arrangement **for producing a system configuration command based on the player preference information for the person assigned to the hotel room;** and
- (d) a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller **for responding to the system configuration command by communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to produce a game**

1 **presentation specified by the presentation switching instructions.** (Emphasis
2 Added)

3 The Appellants submit that there is no teaching or suggestion in Rothschild for elements (b), (c),
4 and (d) of claim 32.

5 Before addressing elements (b), (c), and (d) of claim 32, the Appellants note an important
6 interpretation error in the Final Office Action with respect to the gaming machine required at
7 element (a) of claim 32. Specifically, the Final Office Action refers to elements 12 or 14 in
8 Rothschild as gaming machines (Final Office Action, p. 2, lines 2-3 of final paragraph). The
9 Final Office Action then goes on to cite paragraph 22 of Rothschild as disclosing a “gaming
10 machine” capable of being located in a hotel room (Final Office Action, p. 2, lines 4-5 of final
11 paragraph). The error with this interpretation is that paragraph 22 of Rothschild discusses only a
12 user’s computing device 14 (portable or desktop computer, Internet appliance, etc.) which can be
13 placed by the user in their hotel room. There is no suggestion in Rothschild that a gaming
14 machine 12 may be placed in a hotel room. In fact, Rothschild specifically discloses that gaming
15 machines 12 are located in one or more land-based casinos (Rothschild, ¶ 11). This fundamental
16 error in the Final Office Action in referring to gaming machine 12 and user computing device 14
17 interchangeably affects all of the remaining errors with respect to claim 32 as will be described
18 further below.

19 The Final Office Action relies on the reference to a hotel/casino database 40c in
20 paragraph 32 of Rothschild for teaching the limitation of element (b) of claim 32. However, the
21 mere reference to a hotel/casino database 40c in Rothschild does not teach or suggest any player
22 detecting arrangement for detecting that a person has been assigned to a given hotel room in

1 which a given gaming machine is located. This detection required in element (b) of claim 32 can
2 occur only by recognizing that there is a specific gaming machine in a specific hotel room and
3 that a person has been assigned to that specific hotel room. There is simply no suggestion of in
4 the Rothschild reference (either in the cited paragraph 32 or elsewhere) of detecting that a person
5 has been assigned to a hotel room in which a gaming machine 12 is located.

6 Even if one were to define a user's computing device 14 as a gaming machine as the Final
7 Office Action appears to do, there is no suggestion in Rothschild of any arrangement for
8 detecting when a person has been assigned to a hotel room in which the user's computing device
9 14 is located. If fact, with respect to a person's own computing device, this inquiry regarding
10 hotel room assignment becomes absurd. That is, it would be nonsensical in Rothschild to
11 "detect" if a person has been assigned to a hotel room in which that person's computing device is
12 located.

13 For all of these reasons, the Rothschild reference clearly does not disclose the limitation
14 set out at element (b) of claim 32.

15 The Office Action cites paragraphs 22, 24, and 30 of Rothschild as disclosing a system
16 configuration arrangement as required at element (c) of claim 32. The Appellants respectfully
17 submit that nothing in Rothschild, including paragraphs 22, 24, and 30, teaches or suggests the
18 system configuration arrangement required at element (c) of claim 32. Paragraph 22 of
19 Rothschild simply describes variations for a computing device 14 through which games may be
20 played in the disclosed system. Paragraph 24 of Rothschild states that players may be required to
21 open an account to participate in games, and describes the various types of information that may
22 be associated with such an account. Paragraph 30 of Rothschild simply indicates that a player

1 may enroll in a player tracking system at the casino and that certain data may be associated with
2 the player through the player tracking system. The Final Office Action simply recites the claim
3 limitation and broadly references paragraphs 22, 24, and 30 of Rothschild as disclosing that
4 claim limitation, without specifically pointing to any part of the cited paragraphs which disclose
5 a system configuration arrangement as required at element (c) of claim 32. However, the cited
6 paragraphs do not disclose or even suggest element (c) of claim 32, that is, a system
7 configuration arrangement for producing a system configuration command based on player
8 preference information for a particular person that has been assigned to a particular hotel room in
9 which a specific gaming machine is located.

10 The Final Office Action cites paragraph 31 of Rothschild as disclosing a game
11 modification controller as required in element (d) of claim 32. The Appellants respectfully
12 submit that nothing in Rothschild, including paragraph 31, teaches or suggests the game
13 modification controller required at element (d) of claim 32. Paragraph 31 of Rothschild lists the
14 various types of information and player preferences that may be provided by a player when the
15 player enrolls in the casino's player tracking system. There is nothing in paragraph 31 or
16 elsewhere in Rothschild that teaches or suggests a game modification controller for responding to
17 a system configuration command by communicating presentation switching instructions to a
18 gaming machine located in a particular hotel room as required by element (d) of claim 32.

19 The Appellants note the parenthetical comment in the Final Office Action "(setting player
20 preference to [sic] gaming machine utilizing player game preference stored in the player tracking
21 system, paragraph 31)" appearing at lines 11-12 of page 3 and repeated at lines 8-9 of page 7.
22 First, the information at paragraph 31 of Rothschild does not disclose setting player preferences

1 at a gaming machine. However, even assuming for the purposes of argument that paragraph 31
2 of Rothschild discloses setting player preference to a gaming machine utilizing player game
3 preference stored in the player tracking system, this does not meet the limitation set out at
4 element (d) of claim 32. That is, such a disclosure does not teach a game modification controller
5 that responds to the system configuration command by communicating presentation switching
6 instructions to the gaming machine in the hotel room.

7 Because the Rothschild reference does not teach each and every limitation set out in claim
8 32, and specifically does not teach elements (b), (c), and (d), the Final Office Action rejection of
9 claim 32 as being anticipated by Rothschild is in error and should be reversed.

10 Claim 39

11 Appellants' claim 39 is directed to a method of changing a game presentation produced
12 by a gaming machine and requires the following method steps:

- 13 (a) detecting that a player has been assigned to a hotel room in which the gaming
14 machine is located;
- 15 (b) retrieving stored player preference information for the player;
- 16 (c) producing a system configuration command based on the retrieved player
17 preference information for the player, the system configuration command
18 identifying a game presentation likely to be favored by the player;
- 19 (d) communicating presentation switching instructions to the gaming machine in
20 response to the system configuration command; and
- 21 (e) changing from the game presentation at the gaming machine to the game
22 presentation likely to be favored by the player, the change from the game

1 presentation being performed in response to the presentation switching
2 instructions.

3 The Appellants respectfully submit that Rothschild does not teach or suggest any of these
4 limitations. At the outset, the mere reference to a hotel/casino database in paragraph 32 of
5 Rothschild does not teach or suggest detecting that a player has been **assigned to a hotel room**
6 **in which a gaming machine is located** as required at element (a) of claim 39. Furthermore
7 nothing in Rothschild suggests retrieving stored player preference information for the particular
8 player that has been assigned to a hotel room in which a gaming machine is located, or producing
9 a system configuration command for this player. Thus, Rothschild also does not teach the
10 requirements of elements (b) and (c) of claims 39. Rothschild also does not suggest
11 communicating presentation switching instructions to the gaming machine in the hotel room
12 assigned to the player as required at element (d) of claim 39. Finally, nothing in Rothschild
13 teaches or suggests changing a game presentation at the gaming machine in the assigned hotel
14 room to a presentation likely to be favored by the player that has been assigned to the hotel room
15 as required by element (e) of claim 39.

16 Claim 42

17 Claim 42 is directed to a program product that includes system configuration code that is
18 executable for retrieving game preference information **for a player that has been assigned to a**
19 **hotel room in which a gaming machine is located**, and for producing a system configuration
20 command based on that retrieved information. As indicated above in connection with claims 32
21 and 39, nothing in Rothschild suggests taking any action for a player that has been assigned to a
22 hotel room in which a gaming machine is located. Thus, Rothschild cannot teach or suggest the

1 system configuration code required by element (a) of claim 42. Rothschild also does not suggest
2 any presentation switching at a gaming machine located in a hotel room and thus cannot suggest
3 the presentation switching program code required at element (b) of claim 42.

4 Because Rothschild does not disclose all of the elements required in claims 32, 39, 40,
5 and 42, the anticipation rejection of these claims is in error and should be reversed, along with
6 the anticipation rejection of dependent claims 33 and 40.

7
8 **B. CLAIMS 25 THROUGH 31, 34 THROUGH 38, AND 41 ARE NOT OBVIOUS**
9 **OVER ROTHSCHILD IN VIEW OF SIZER**

10 The Appellants respectfully submit that the Final Office Action rejection fails to make out
11 a *prima facie* case of obviousness as to claims 25 through 31, 34 through 38, and 41, and
12 therefore believe the rejection of these claims is in error. More particularly, the Appellants
13 respectfully submit that the proposed combination of references fails to teach or suggest each
14 element required in the claims.

15 The USPTO carries the initial burden of establishing a *prima facie* case of obviousness.
16 In re Piasecki, 745 F.2d 1468, 1471-72, 223 U.S.P.Q. 785,787-88 (Fed. Cir. 1984). To establish
17 *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or
18 suggested by the prior art. See In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580, 583 (CCPA 1974).

19 As indicated in the Final Office Action at the bottom three lines of page 4 and top two
20 lines of page 5, the Rothschild reference does not teach any element for detecting a player as the
21 player traverses the gaming facility and approaches the area of the gaming facility in which the
22 gaming machine is located (as required at element (b) of claim 25 and element (a) of claim 34).

1 This portion of the Final Office Action also indicates that Rothschild does not teach any element
2 for switching the game presentation at the gaming machine prior to an arrival of the player at the
3 gaming machine (as required at element (e) of claim 25, element (e) of claim 34, and element (b)
4 of claim 41.) The Final Office Action relies on the Sizer patent for suggesting these elements
5 missing from Rothschild.

6 The Sizer patent is directed to a marketing device that detects the presence of a person
7 within a detection area (such as an area proximate to a product to be marketed) and then delivers
8 a marketing message to the detected person if it is determined that it is appropriate to deliver the
9 marketing message (Sizer at Abstract, lines 1-8 and col. 8, lines 21-30). Sizer discloses that the
10 marketing message is only delivered when a person is there to receive it (Sizer at col. 5, lines 40-
11 49 and col. 13, lines 29-30, for example). Nothing in the Sizer patent suggests any arrangement
12 for switching a game presentation at a gaming machine.

13 Even if one were to combine the teachings of Rothschild and Sizer as proposed in the
14 Final Office Action, the resulting combination would fail to include or suggest any element for
15 switching the game presentation at the gaming machine prior to an arrival of the player at the
16 gaming machine. As noted above, the Final Office Action concedes that Rothschild does not
17 disclose any element for switching the game presentation at a gaming machine prior to an arrival
18 of the approaching player at the gaming machine. Sizer also fails to teach or suggest any element
19 for switching a game presentation at a gaming machine prior to an arrival of an approaching
20 player. Because neither reference of the proposed combination of Rothschild and Sizer teaches
21 or suggests the limitation required at element (e) of claim 25, element (e) of claim 34, and
22 element (b) of claim 41, namely, the function or step of switching a game presentation at a

gaming machine prior to an arrival of an approaching player, the combination of these references also cannot teach or suggest the element.

The Final Office Action provides the following rationale for combining Rothschild and Sizer.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was [sic] made to provide the wireless detection system of Sizer et al. to the gaming network of Rothschild to instantly detect game player [sic] in the area to provide gaming advertisement to the player faster and more effective [sic] that [sic] would attract more game players to play game [sic], thus bring forth profits to the casino. (Final Office Action, p. 5, lines 8-13)

However, claims 25, 34, and 41 do not require providing gaming advertisement to a player.

Rather, element (e) of claim 25 requires:

a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for receiving the system configuration command from the system configuration arrangement and for communicating presentation switching instructions to the gaming machine, **the presentation switching instructions causing the gaming machine to switch from a first game presentation to the game presentation likely to be favored by the player prior to an arrival of the player at the gaming machine.** (Emphasis added)

Element (e) of claim 34, and element (b) of claim 41 each require similar limitations in the context of a method and program product, respectively.

Simply providing an advertising message as disclosed in Sizer, even if it is a gaming advertisement, does not amount to switching from one gaming machine game presentation to another at any point in time, and certainly not prior to an arrival of the player at the gaming machine.

Furthermore, the Appellants note that the Sizer patent discloses only taking some action at the location at which the marketing target is located. Namely, Sizer discloses delivering a

1 marketing message to the detected person in the detection area (Sizer at col. 10, lines 44-47).
2 Sizer does not suggest taking any action at a location other than where the marketing target is
3 located. Thus, Sizer could not suggest switching a game presentation at a gaming machine **prior**
4 **to an arrival of the player at the gaming machine.**

5 For all of these reasons the Appellants submit that the proposed combination of
6 Rothschild and Sizer fails to teach or suggest each element required in claims 25, 34, and 41, and
7 thus that the rejections under 35 U.S.C. §103(a) are in error.
8

9 VIII. CONCLUSION

10 For all of these reasons, the Appellants submit that the rejections set forth in the Final
11 Office Action are in error, and that claims 25 through 42 are entitled to allowance. The
12 Appellants therefore respectfully request that the Board reverse the Final Office Action rejecting
13 claims 25 through 42.

14 Respectfully submitted,

15 The Culbertson Group, P.C.
16

17
18
19 Date: 1 April 2008

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IX. APPENDIX A

CLAIMS INVOLVED IN THE APPEAL (37 C.F.R. §41.37(c)(1)(viii))

1 - 24 Canceled

25. A gaming system including:

- (a) a gaming machine including a game presentation arrangement capable of producing a respective game presentation for any one of a number of different games;
- (b) a player detecting arrangement separate from the gaming machine for detecting a player as the player traverses a gaming facility and approaches an area of the gaming facility in which the gaming machine is located;
- (c) a player data collection arrangement for storing player preference information for the player;
- (d) a system configuration arrangement for producing a system configuration command specifying a game presentation likely to be favored by the player based on the player preference information for the detected player; and
- (e) a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for receiving the system configuration command from the system configuration arrangement and for communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming

1 machine to switch from a first game presentation to the game presentation likely
2 to be favored by the player prior to an arrival of the player at the gaming machine.
3

4 26. The gaming system of claim 25 wherein the player detecting arrangement includes a
5 player location determining arrangement for determining the location of the player in the
6 gaming facility in which the gaming machine is located.
7

8 27. The gaming system of claim 26 wherein the player carries an identifying device and
9 wherein the player location determining arrangement includes a reading device for
10 remotely reading identifying information from the identifying device.
11

12 28. The gaming system of claim 26 wherein the player carries an identifying device and
13 wherein the player location determining arrangement includes a receiver device for
14 remotely receiving identifying information transmitted from the identifying device.
15

16 29. The gaming system of claim 26 wherein the player carries a transponder transmitting a
17 player identifying signal, and wherein the player location determining arrangement
18 includes a receiving arrangement for determining the location of the player based upon
19 the player identifying signal.
20

- 1 30. The gaming system of claim 25 wherein the player detecting arrangement detects the
2 player by reading information associated with a player card which is usable by the player
3 in the gaming facility in which the gaming machine is located.
4
- 5 31. The gaming system of claim 25 wherein the area of the gaming machine is located in a
6 hotel room and wherein the player detecting arrangement detects the player through a
7 check-in procedure for the hotel room.
8
- 9 32. A gaming system including:
- 10 (a) a gaming machine including a game presentation arrangement capable of
11 producing a respective game presentation for any one of a number of different
12 games, the gaming machine being located in a hotel room;
- 13 (b) a player data collection arrangement for detecting that a person has been assigned
14 to the hotel room in which the gaming machine is located and for storing player
15 preference information for the person assigned to the hotel room;
- 16 (c) a system configuration arrangement for producing a system configuration
17 command based on the player preference information for the person assigned to
18 the hotel room; and
- 19 (d) a game modification controller in communication with the system configuration
20 arrangement and with the gaming machine, the game modification controller for
21 responding to the system configuration command by communicating presentation
22 switching instructions to the gaming machine, the presentation switching

instructions causing the gaming machine to produce a game presentation specified by the presentation switching instructions.

33. The gaming system of claim 32 wherein the player data collection arrangement detects that the person has been assigned to the hotel room by receiving room check-in information.

34. A method of changing a first game presentation produced by a gaming machine in a gaming facility, the method including:

- (a) detecting a player as the player is traversing the gaming facility and is approaching an area in which the gaming machine is located, the gaming machine having the capability of producing a respective game presentation for any one of a number of different games;
- (b) retrieving stored player preference information for the player;
- (c) producing a system configuration command based on the retrieved player preference information for the player, the system configuration command specifying a second game presentation different from the first game presentation;
- (d) communicating presentation switching instructions to the gaming machine in response to the system configuration command; and
- (e) changing from the first game presentation at the gaming machine to the second game presentation, the change being in response to the presentation switching

1 instructions and being performed prior to an arrival of the player at the gaming
2 machine.
3

4 35. The method of claim 34 wherein the new game presentation includes an attract display
5 tailored for the respective player.
6

7 36. The method of claim 34 wherein detecting the player includes receiving a transponder
8 signal transmitted from a transponder carried by the player.
9

10 37. The method of claim 34 wherein detecting the player includes remotely reading an
11 identification device carried by the player.
12

13 38. The method of claim 34 wherein the gaming machine is located in a hotel room and
14 wherein detecting the player includes receiving room check-in information.
15

16 39. A method of changing a game presentation produced by a gaming machine in a gaming
17 facility, the method including:

18 (a) detecting that a player has been assigned to a hotel room in which the gaming
19 machine is located;

20 (b) retrieving stored player preference information for the player;

- (c) producing a system configuration command based on the retrieved player preference information for the player, the system configuration command identifying a game presentation likely to be favored by the player;
- (d) communicating presentation switching instructions to the gaming machine in response to the system configuration command; and
- (e) changing from the game presentation at the gaming machine to the game presentation likely to be favored by the player, the change from the game presentation being performed in response to the presentation switching instructions.

40. The method of claim 39 wherein detecting that the player has been assigned to the hotel room includes receiving room check-in information.

41. A program product for configuring a gaming machine having the ability to produce a respective game presentation for a number of different games, the program product being stored on a computer readable medium and including:

- (a) system configuration program code executable for retrieving game preference information on a player that has been detected traversing a gaming facility toward an area of the gaming facility in which the gaming machine is located, and for producing a system configuration command specifying a game presentation likely to be favored by the player based on the retrieved game preference information on the player; and

1 (b) presentation switching program code executable for responding to the system
2 configuration command by communicating presentation switching instructions to
3 the gaming machine, the presentation switching instructions being effective for
4 causing the gaming machine to switch from a first game presentation at the
5 gaming machine to the game presentation likely to be favored by the player, the
6 switch occurring prior to an arrival of the player at the gaming machine.

7
8 42. A program product for configuring a gaming machine having the ability to produce a
9 respective game presentation for a number of different games, the program product being
10 stored on a computer readable medium and including:

- 11 (a) system configuration program code executable for retrieving game preference
12 information on a player that has been assigned to a hotel room in which the
13 gaming machine is located, and for producing a system configuration command
14 identifying a second game presentation based on the retrieved game preference
15 information on the player; and
16 (b) presentation switching program code executable for responding to the system
17 configuration command by communicating presentation switching instructions to
18 the gaming machine, the presentation switching instructions being effective for
19 causing the gaming machine to switch from a first game presentation at the
20 gaming machine to the second game presentation.

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XI. APPENDIX C

RELATED PROCEEDINGS APPENDIX (37 C.F.R. §41.37(c)(1)(x))

There is no decision rendered in the appeal identified pursuant to 37 C.F.R.

§41.37(c)(1)(ii).